



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OCT 28 2009

MCPB No. 09-131
Preliminary Plan No. 120070520
Chevy Chase View
Date of Hearing: October 8, 2009

MONTGOMERY COUNTY PLANNING BOARD

RESOLUTION

WHEREAS, pursuant to Montgomery County Code Chapter 50, the Montgomery County Planning Board ("Planning Board" or "Board") is vested with the authority to review preliminary plan applications; and

WHEREAS, on October 8, 2009, Frederick Gore ("Applicant"), filed an application for approval of a preliminary plan of subdivision of property that would create 3 lots on 0.96 acres of land located at 4311 Clearbrook Lane, 125 feet west of Cedar Lane ("Property" or "Subject Property"), in the Kensington-Wheaton master plan area ("Master Plan"); and

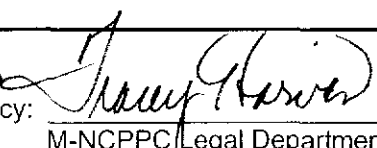
WHEREAS, Applicant's preliminary plan application was designated Preliminary Plan No. 120070520, Chevy Chase View ("Preliminary Plan" or "Application"); and

WHEREAS, Planning Board staff ("Staff") issued a memorandum to the Planning Board, dated September 24, 2009, setting forth its analysis, and recommendation for denial, of the Application subject to certain conditions ("Staff Report"); and

WHEREAS, following review and analysis of the Application by Staff and the staff of other governmental agencies, on October 8, 2009, the Planning Board held a public hearing on the Application (the "Hearing"); and

WHEREAS, at the Hearing, the Planning Board heard testimony and received evidence submitted for the record on the Application; and

Approved as to
Legal Sufficiency:


M-NCPPC Legal Department

WHEREAS, on October 8, 2009, the Planning Board denied the Application on motion of Commissioner Wells-Harley; seconded by Commissioner Cryor; with a vote of 4-1, Commissioners Cryor, Hanson, Presley and Wells-Harley voting in favor of the denial, with Commissioner Alfandre voting against.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the relevant provisions of Montgomery County Code Chapter 50, the Planning Board denied Preliminary Plan No. 120070520 to create 3 lots on 0.96 acres of land located at 4311 Clearbrook Lane, 125 feet west of Cedar Lane ("Property" or "Subject Property"), in the Kensington-Wheaton master plan area ("Master Plan").

BE IT FURTHER RESOLVED, that having given full consideration to the recommendations and findings of its Staff as set forth in the Staff Report, which the Board hereby adopts and incorporates by reference, and upon consideration of the entire record, the Montgomery County Planning Board FINDS that:

1. *The Preliminary Plan fails to comply with Section 50-29(a)(1) of Chapter 50, the Subdivision Regulations.*

Section 50-29(a)(1) of the Subdivision Regulations states, with respect to lot dimensions, that: *Lot size, width, shape and orientation shall be appropriate for the location of the subdivision taking into account the recommendations included in the applicable master plan, and for the type of development or use contemplated in order to be approved by the board.*

The Planning Board finds the subdivision does not result in lots that have appropriate sizes, shapes, widths and orientations for the area in which they are located. For this application, the Planning Board believes the orientation of proposed lot 10 is inappropriate for the location of the subdivision. The orientation of lot 10 is such that a new dwelling unit on the lot will be behind and face the rear yards of proposed lots 9 and 11. Other lots within the area conform to a grid pattern of development or were created in such a way that dwelling units on the lots have a direct relationship to the street on which they front. While lots 29, 3C and 7 to the north of proposed lot 10 have similar lot frontages, these lots directly front Puller Drive without obstruction.

2. *The Preliminary Plan fails to comply with Section 50-29(b)(2) of Chapter 50, the Subdivision Regulations.*

In order to approve an application for resubdivision, the Planning Board must find that each of the proposed lots complies with all seven of the resubdivision criteria, set forth in Section 50-29(b)(2) of the Subdivision Regulations, which states that: *Lots on a plat for the Resubdivision of any lot, tract or other parcel of*

land that is part of an existing subdivision previously recorded in a plat book shall be of the same character as to street frontage, alignment, size, shape, width, area and suitability for residential use as other lots within the existing block, neighborhood or subdivision.

For this preliminary plan application, the Planning Board finds the proposed lots are not of the same character as to street frontage and shape as other lots within the existing neighborhood ("Neighborhood"), as delineated by Staff in the Staff Report, and as analyzed below:

Size:

Lot sizes in the Neighborhood range from 6,000 square feet to 18,877 square feet. Proposed lot 9 is 16,043 square feet in size, proposed lot 10 is 16,504 square feet and proposed lot 11 is 9,369 square feet. **The proposed lot sizes are in character with the size of existing lots in the Neighborhood.**

Width:

Lot widths in the Neighborhood range from 60 feet to 133 feet. The three proposed lots are subject to an established building line for measuring width. Proposed lot 9 has a lot width of 65.82 feet, proposed lot 10 a width of 78.26 feet and proposed lot 11 a width of 60 feet at the Established Building Line. Three lots in the Neighborhood have a lot width of 60 feet and a total of eight lots in the Neighborhood range from 60 feet to 65 feet in width. **For these reasons, the three proposed lots will be in character with existing lots in the Neighborhood with respect to width.**

Frontage:

Lot frontages for the 21 lot Neighborhood range from 19 feet to 111.55 feet. The minimum lot frontage permitted in the R-60 zone is 25 feet. Lot 7, block 16 has nonconforming lot frontage of 19 feet and lots 3C and 29 in the Neighborhood have 25 feet of street frontage. While these three lots have minimal lot frontage, all three lots directly front the substandard termination of Puller Drive. Proposed lot 9 has 63.73 feet of frontage and proposed lot 11 has 60 feet of frontage. Proposed lot 10 has 25 feet of frontage to accommodate a pipestem lot. **Given that only lot 3C and lot 29 have 25 feet of frontage in the Neighborhood, the Planning Board finds that an established pattern of lots with minimum lot frontage is not present within the Neighborhood. As a result, Proposed lot 10 fails to be of the same character as existing lots in the Neighborhood with respect to lot frontage.**

Area:

Buildable area calculations for the Neighborhood range from 1,995 square feet to 10,728 square feet. The three proposed lots have buildable areas of 9,956

square feet for lot 9, 7,493 square feet for lot 10 and 4,710 square feet for lot 11. **The proposed lots will be of the same character as other lots in the Neighborhood with respect to buildable area.**

Alignment:

Within the resubdivision Neighborhood, 18 lots have a perpendicular alignment to the street and 3 lots are corner lots. The three lots as proposed will also align to Clearbrook Lane in a perpendicular fashion. **The proposed lots are of the same character as existing lots with respect to the alignment criterion.**

Shape:

Of the 21 lots in the Neighborhood, 13 lots are rectangular in shape, 7 lots are irregular in shape and one lot, lot 3C, is a pipestem lot. Proposed lots 9 and 11 are rectangular and proposed lot 10 is configured as a pipestem lot. Staff does not believe the existence of one other pipestem lot in the Neighborhood warrants another. In fact, lot 3C is pipestem in shape due to a part of lot that was created for lot 7, block 16. The dwelling unit on lot 3C does not face the rear yards of adjacent lots and does not have a pipestem appearance from the street. **The Planning Board finds proposed lot 10 will not be in character with the shapes of the existing lots in the Neighborhood.**

Suitability for Residential Use: The existing and the proposed lots are zoned residential and the land is suitable for residential use.

BE IT FURTHER RESOLVED, that this Resolution constitutes the written opinion of the Board in this matter, and the date of this Resolution is OCT 28 2009 (which is the date that this Resolution is mailed to all parties of record); and

BE IT FURTHER RESOLVED, that any party authorized by law to take an administrative appeal must initiate such an appeal within thirty days of the date of this Resolution, consistent with the procedural rules for the judicial review of administrative agency decisions in Circuit Court (Rule 7-203, Maryland Rules).

* * * * *

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on motion of Commissioner Wells-Harley, seconded by Commissioner Alfandre, with Chairman Hanson, Commissioners Wells-Harley and

MCPB No. 09-131
Preliminary Plan No. 120070520
Chevy Chase View
Page 5 of 5

Alfandre present and voting in favor of the motion, and Commissioners Cryor and Presley absent at its regular meeting held on Thursday, October 22, 2009, in Silver Spring, Maryland.

A handwritten signature in cursive script, appearing to read "Royce Hanson", written over a horizontal line.

Royce Hanson, Chairman
Montgomery County Planning Board